

Fair Political Practices Commission

Memorandum

To: Chairman Getman, Commissioners Downey, Knox, and Swanson

From: Scott A. Burritt, Executive Fellow
Hyla P. Wagner, Senior Commission Counsel
Luisa Menchaca, General Counsel

Subject: Proposition 34 Regulations: Adoption of Proposed Regulation 18544, Formula for Campaign Contributions and Voluntary Expenditure Limits COLA

Date: July 29, 2002

Regulation 18544: COLA Formula

Summary

Proposition 34 created contribution limits and voluntary expenditure ceilings for state candidates (Government Code sections 85301, 85302, 85303 and 85400).¹ Section 83124, added by Proposition 34, provides the Fair Political Practices Commission (“Commission”) with the statutory authority to adjust the contribution limits and voluntary expenditure ceilings on January 1, 2003 to reflect changes in the Consumer Price Index (CPI). Section 83124 states:

“The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.”

This proposed regulation creates the formula for the adjustment of the contribution and expenditure limits. The proposed regulation and this memorandum are not substantially changed from the prenotice version.

Background - Current COLA Formula in Regulation 18940.2 (Gift Limits)

The formula currently used to calculate the gift limit adjustment in section 89503 is found in regulation 18940.2 and is useful in developing a regulation creating a formula for the adjustment of the contribution and expenditure limits.

¹ All references are to the Government Code.

The COLA example in this regulation reads as follows:

$$\frac{\$250 \times 145.6}{135} = \$270$$

The adjustment is based upon the U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers obtained for the calendar year immediately preceding the year in which the adjustment is to take effect. The Consumer Price Index is released at the end of each month covering economic activity for the prior month. Since the gift limit has been in effect, the gift limit formula has not presented any problems.

Staff researched the feasibility of using a formula other than the California Consumer Price Index for All Urban Consumers. The “urban consumers” indices are the only data collected; figures are not gathered for all California consumers. According to the California State Library, other economic indicators exist such as gross domestic product deflators, but this data is typically industry specific, such as the high-tech industry. While other economic indicators may be more applicable to political campaigns (as opposed to the CPI, which is a measure of consumer goods), staff recommends the continued use of the California Consumer Price Index for All Urban Consumers. Staff makes this recommendation based upon the following factors.

Section 83124 requires the use of the CPI. This data is readily available from the California Department of Finance and the United States Department of Labor. As such, the data is released on a set schedule and is easy to locate. Additionally, it is important to remain consistent with other state agencies and with the COLA formulas used elsewhere in the regulations. Finally, section 82001 states that the Commission shall use COLAs on the same basis as those routinely used by other state agencies.

Staff believes the proposed formula for contribution and expenditure limits should mirror the formula found in regulation 18940.2 as follows:

$$\frac{X \times Y}{177.3} = Z$$

Where X = Amount of Contribution Limit/Expenditure Ceiling;
 Y = Annual Average California CPI for the year preceding the increase;
 177.3 = the Annual Average California CPI for 2000; and
 Z = Adjusted Contribution Limit/Expenditure Ceiling.

During the prenotice period, staff received no comments from the public or interested persons regarding the COLA formula.

Effective Dates of Adjusted Limits

Pursuant to language in subdivision (a)(1) of the regulation (lines 9 and 10), the adjusted contribution limit amounts will apply to all state elections taking place during the two-year period from January 1, 2003 to December 31, 2004. For example, if the new adjusted limit were \$3,200, it would apply to a special Assembly election occurring in February of 2003, even if fundraising started during the last months of 2002. Similarly, the current \$3,000 limit will apply for Assembly candidates who raise funds after January 1, 2003 to pay down debts from the 2002 election.

The adjusted contribution limits will be applied to a particular election in order to avoid significant confusion that might be caused if contribution limits changed mid-way through a campaign. For example, from an Enforcement Division perspective, the limits for all contributions in a particular election will be the same, rather than trying to determine the date upon which contributions were made to a candidate. Likewise, the Technical Assistance Division will be better able to advise the public, and the public will more easily understand, contribution limits tied to the date of an election rather than changing the contribution limits on the first day of the year.

Time Frame for Implementation

Regulation 18545, which will state the amount of the adjusted contribution and expenditure limits in effect for each office, is currently in pre-notice discussion and will be presented for adoption in November of 2002, with the amounts to be in effect from January 1, 2003 to December 31, 2004.

Because the actual CPI data for 2002 will not be released until February 2003, and because the adjustment will be in effect in January 2003, staff recommends that the COLA adjustment be based on the most recent Department of Finance estimate of the Consumer Price Index available in September. The California Department of Finance May Revision forecast estimates that the 2002 California Consumer Price Index for All Urban Consumers will be 187.4 and it is likely that the estimate available in September 2002 will be close to that figure. The estimated amounts will be inserted into regulation 18545 and the regulation will be presented for formal adoption to the Commission in November, following formal Office of Administrative Law notice.

Staff Recommendation: Staff recommends the Commission adopt regulation 18544.

Attachment:

1. Proposed Regulation 18544